THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.25154, 25155 and 25175 of 2006

Dated:20.12.2006

BETWEEN:

Chanda Seeta Rami Reddy and others.

… Petitioner

and

The Mandal Revenue Officer, Bhadrachalam Mandal, Khammam District, and others.

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.25154, 25155 and 25175 of 2006

COMMON ORDER:

In these writ petitions a writ of mandamus declaring the action of the respondents, namely, the Mandal Revenue Officer, Bhadrachalam, the Station Officer, Bhadrachalam Town Police Station, and the Executive Officer, Sri Seeta Ramachandraswamivari Devasthanam (Devasthanam, for brevity), in trying to dispossess and demolish the petitioners' houses in Survey No.69 situated at Purushothampatnam Village of Bhadrachalam Mandal in Khammam District, without following due process of law as illegal and arbitrary. A consequential direction is also sought to the respondents not to interfere with the peaceful possession and enjoyment of the petitioners.

It is the case of the petitioners that their immediate predecessors purchased land admeasuring Acs.6.00 in Survey No.17 (new Survey No.69) in 1957 under an agreement of sale from Majeti Satyanarayana and others. The petitioners claim to be in possession of small extents of land admeasuring Ac.0.08 cents to Ac.0.15 cents in Survey No.69. They also statedly constructed houses and are staying there. It is their case that on 29.11.2006 the staff of the respondents came to the petitioners' houses at 3 O' clock in the evening and tried to dispossess them and threw away their household articles into the streets.

Therefore, they filed the present Writ Petitions seeking the directions as noticed hereinabove.

At the stage of admission itself, the first respondent and the third respondent filed separate counter affidavits. It is, however, not necessary to make a detailed reference to these counters. Suffice to say that in the counter affidavit filed by the Mandal Revenue Officer it is stated that the property admeasuring Acs.920.35 guntas originally belonged to S.Purushotham Das, who purchased the same during the years 1869-1870 from the Secretary of State for India. The property was subsequently endowed by a registered gift deed dated 12.10.1878 to the Devasthanam, and after resurvey the land is identified as Survey No.68 and not Survey No.69. It is also alleged that Devasthanam filed an application before the Deputy Commissioner of Endowments for eviction of some of the encroachers, and the same, being O.A.No.32 of 1963, was ordered on 03.03.1965. The challenge against the same in W.P.No.3483 of 1973 as well as W.A.No.752 of 1973 was also dismissed by this Court.

In the counter affidavit filed by Devasthanam through its Executive Officer, it is stated that some of the occupants of the land including the predecessors of the petitioners made applications for ryotwari patta under the Andhra Pradesh (Scheduled Areas Ryotwari Settlement) Regulation, 1970 (Regulation II of 1970), and that they failed before the Settlement Officer, appellate authority, revisional authority and also before this Court. While denying the allegation that the respondents are trying to dispossess the petitioners and demolish their houses on 29.11.2006, the third respondent made the following averments.

> I submit that the writ petition is filed only to see that he is not evicted from the premises, which is of the Deity. Apprehending eviction, the present writ petition is filed by the petitioner with all the false allegations. I submit that most of the persons who have occupied the lands of the Deity are voluntarily vacating the lands. Since other persons, who have occupied the lands of the Deity are voluntarily vacating, the petitioners have apprehended that they will be evicted forcefully and therefore they filed the present writ petition. It is not correct to state that in the year 2004 and on 29.11.2006, this respondent along with others have made attempts to evict the petitioner. I submit that the date showing the cause for filing the writ petition is an imaginary one and on that date nobody from the office of the third respondent has visited the

site for getting evicted the petitioner. The predecessors of the petitioner, has lost the cases in all forums including in this Hon'ble Court…

After hearing the learned Counsel for the petitioners, learned Government Pleader for Endowments and the learned Assistant Government Pleader for Revenue (General-T), this Court is convinced that the Writ Petition is filed on a mere apprehension that the petitioners might be dispossessed forcibly. The learned Government Pleader and the learned Assistant Government Pleader agree that unless and until appropriate action is taken under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, the petitioners cannot be evicted.

Liberty is reserved to the third respondent to do so. Till the petitioners are evicted in accordance with law, their right to enjoy the property - notwithstanding their unsuccessful attempts to get ryotwari pattas under Regulation II of 1970 – cannot be disturbed.

The Writ Petitions, with the above observations, are accordingly disposed of. No costs.

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(V.V.S.RAO, J)

20.12.2006
vs